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In re Application of	:	
PAZ	:	DECISION ON
Application No.: 09/743,787	:	
PCT No.: PCT/CU99/00002	:	PETITION UNDER
Int. Filing Date: 19 July 1999	:	
Priority Date: 17 July 1997	:	37 CFR 1.181
Attorney Docket No.: 977777-11177	:	
For: PROCEDURES FOR OBTAINING POLYMERS	:	
DERIVED FROM VINYL ACETATE AND	:	
THEIR USES	:	

This is a decision on applicant's "Request For Withdrawal of Holding of Abandonment" filed on 18 October 2001 and again by facsimile on 19 June 2002 in the United States Patent and Trademark Office (USPTO). The petition is being treated as a petition under 37 CFR 1.181.

### **BACKGROUND**

On 19 July 1999, applicant filed international application PCT/CU99/00002, which claimed priority of an earlier application filed 17 July 1998. A copy of the international application was communicated to the United States Patent and Trademark Office from the International Bureau on 27 January 2000. A Demand for international preliminary examination, in which the United States was elected, was filed on 02 February 2000, prior to the expiration of nineteen months from the priority date. Accordingly, the thirty-month period for paying the basic national fee in the United States expired at midnight on 17 January 2001.

On 17 January 2001, applicant filed a transmittal letter for entry into the national stage in the United States, which was accompanied by the requisite basic national fee as required by 35 U.S.C. 371(c)(1) and six sheets of drawings. An oath or declaration as required by 35 U.S.C. 371(c)(4) was not included.

On 14 February 2001, applicant was mailed a Notification of Missing Requirements (Form PCT/DO/EO/905) advising applicant that an oath or declaration of the inventor was missing from the application. The notification set a one month period for response.

On 17 September 2001, applicant was mailed a Notification of Abandonment (Form

PCT/DO/EO/909) for having failed to respond to the Notification of Missing Requirements (Form PCT/DO/EO/905).

On 18 October 2001, applicant filed the present petition requesting withdrawal of the holding of abandonment.

On 19 June 2002, applicant refiled the above-referenced papers by facsimile.

### **DISCUSSION**

The Official Gazette, at 1156 OG 53, provides that a petition requesting relief based on the grounds that an Office action was not received must be accompanied by a statement that (1) the Office action was not received, (2) attests that a search of the file jacket indicates the Office action was not received, (3) attests that a search of counsel's docket records indicates the Office action was not received and (4) the Petition must also be accompanied by copies of the docket records where the non-received Office action would have been entered. (See also, Delgar v. Schulyer, 172 USPQ 513 (D.D.C. 1971).

Applicant's petition and accompanying papers filed 18 October 2001 satisfy items (1), (3) and (4).

As to item (2), while applicant has provided a declaration of Monique Logan indicating that she examined the cover of the file and did not find any notation indicating that the Notification of Missing Requirements was received, an examination of the cover of the file is not sufficient. Applicant must attest that a search of the file jacket indicates that the Office action was not received.

For the reason indicated above, it is not proper to grant applicant's petition at this time.

### **CONCLUSION**

The Petition to Withdraw Holding of Abandonment under 37 CFR 1.181 has been considered, however, for the reasons indicated above, the petition stands **DISMISSED** without prejudice and the application remains **ABANDONED**.

If reconsideration of the merits of this petition is desired, a proper response must be filed within **TWO (2) MONTHS** from the mail date of this decision. Any reconsideration request should include a cover letter entitled, "Renewed Petition Under 37 CFR 1.181." No additional fee is required.

Any renewed petition filed must include a proper reply. A proper reply must include a statement that a search of the file jacket indicates the Notification of Missing Requirements

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mailed 14 February 2001 was not received.

Any further correspondence with respect to this matter should be addressed to the Assistant Commissioner for Patents, Box PCT, Washington, D.C. 20231, with the contents of the letter marked to the attention of the PCT Legal Office.



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